

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Xcel Energy Petition for
Approval of a Compliance Filing and
Replacement Power Purchase Agreement with
Invenergy Cannon Falls, LLC

ISSUE DATE: July 29, 2005

DOCKET NO. E-002/M-04-1426

ORDER APPROVING REPLACEMENT
PURCHASE POWER AGREEMENT

PROCEDURAL HISTORY

On March 15, 2005, the Commission issued an Order in this matter approving a power purchase agreement between Xcel Energy (Xcel) and Invenergy Cannon Falls, LLC (Invenergy), as modified. In so doing, the Commission declined to impose biodiesel requirements and opted to allow Xcel to pay Invenergy a “risk” premium to maintain a fixed price.

On April 22, 2005, Xcel filed a petition asking the Commission to approve a compliance filing and a replacement amended power purchase agreement (PPA) with Invenergy.

On May 27, 2005, the Department filed comments.

On June 10, 2005, Xcel Energy filed reply comments.

The Commission met to consider this matter on July 21, 2005.

FINDINGS AND CONCLUSIONS

I. Background

Xcel terminated the original PPA with Invenergy shortly after the Commission meeting approving it. The Company indicated that while the generating facility could have been constructed to meet the start date under the original PPA, information related to the timing of necessary transmission improvements led it to terminate the PPA.

After termination, Xcel began negotiating a replacement PPA with Invenergy to achieve a PPA with a two-year delay in the start date. In order to provide encouragement to Invenergy, the proposed term of the contract was extended by the same amount.

Upon completion, the Invenergy facility would consist of two simple cycle, natural gas-fired combustion turbines with a combined capacity of 357 MW (winter) and 301 MW (summer) to supply Xcel with peaking generation when it experiences its greatest demand. The back-up fuel for the project is proposed to be fuel oil.

II. Compliance With the March 15, 2005 Order

A. Background

In its March 15, 2005 Order, the Commission expressed concern that the proposed PPA's inclusion of two price adjustments that depended on future events introduced unreasonable price uncertainty. To eliminate that price uncertainty, the Commission directed Xcel to incorporate a particular fixed risk premium in the PPA. The Commission also directed Xcel to give it written notice once the owner/operator of the New Lateral¹ was known.

B. The Department's Comments Regarding the Compliance Aspect of Xcel's April 22, 2005 Filing

Based on its review of Xcel's filing, the Department stated its belief that the Company had complied with the Commission's Order.

C. Commission Analysis and Action

The Commission notes that Xcel has eliminated the price uncertainty that the Commission had identified in the original PPA and has informed the Commission of the identity of the owner/operator of the New Lateral. The Commission concludes that Xcel has complied with the Commission's March 15, 2005 Order.

III. Replacement PPA

A. Background

Xcel terminated the original PPA with Invenergy shortly after the Commission meeting approving it. The Company indicated that while the generating facility could have been constructed to meet the start date under the original PPA, information related to the timing of necessary transmission improvements led it to terminate the PPA. The termination deadline was February 28, 2005.

After termination, Xcel began negotiating a replacement PPA with Invenergy to achieve a PPA with a two-year delay in the start date. The material changes to the original PPA are minimal.

B. Xcel's Initial Recommendation

Xcel recommended the Commission find that:

¹ New Lateral: Invenergy's plans for the Facility include the construction of a lateral natural gas supply pipeline (New Lateral) that would connect with the Northern Natural Gas interstate pipeline system.

- a. the proposed replacement PPA is reasonable and in the public interest;
- b. the replacement PPA is subject only to ongoing prudence review (through ongoing prudence review of the annual automatic adjustment of charges reports); and
- c. Xcel Energy may recover from Minnesota retail customers the Minnesota Jurisdictional portion of the energy payments during the full term of the agreement (with capacity costs to be addressed in the next electric rate case).

C. The Department's Initial Recommendations

The Department recommended that the Commission approve the replacement PPA and allow Xcel to recover all capacity costs associated with the PPA in its rate case with conditions, i.e., only if the Invenenergy facility can fully deliver the energy to Xcel's Minnesota-jurisdictional retail electric customers during the periods the facility is needed. The Department also recommended that the Commission find that Xcel would not be allowed to recover capacity cost payments made to Invenenergy at least until the facility is able to deliver the energy to Xcel's Minnesota-jurisdictional retail electric customers.

The Department also recommended that the Commission require Xcel to request the addition of natural gas submetering equipment if the facility is expanded to facilitate wholesale sales to third parties and to notify the Commission immediately if it plans to assign the PPA to any of its affiliates.

D. Joint Recommendation

At the hearing on this matter, the Department and Xcel jointly proposed that the Commission

- 1. approve the replacement power purchase agreement as reasonable and in the public interest;
- 2. find that the PPA is subject only to ongoing prudence review through the annual automatic adjustment reports;
- 3. find that Xcel may recover the Minnesota jurisdictional portion of the energy payments from Minnesota customers during the full term of the PPA and that the recovery of capacity costs will be addressed in the Company's next rate case taking into account:
 - a. the Midwest Independent System Operator (MISO) determination of deliverability;
 - b. Xcel's actions to fully implement the requirements mentioned in the MISO System Impact Study; and
 - c. Xcel's demonstration of a good faith effort to mitigate any other newly identified issues related to the deliverability of the full capacity from the Invenenergy facility.

E. Commission's Analysis and Action

The Commission finds that the parties' proposed resolution of this matter and the findings proposed therein are reasonable. The replacement PPA differs little from the PPA that the Commission approved in the March 15, 2005 Order and the need rationale for the PPA remains intact. Moreover, the key issue in dispute in their initial comments (recovery of capacity costs) is reasonably addressed by the parties' joint proposal. The Commission therefore will adopt their proposed resolution, including the proposed findings contained therein.

ORDER

1. The Commission hereby approves the parties' replacement power purchase agreement.
2. The Commission finds that the PPA is subject only to ongoing prudence review through the annual automatic adjustment reports.
3. The Commission finds that Xcel may recover the Minnesota jurisdictional portion of the energy payments from Minnesota customers during the full term of the PPA and that the recovery of capacity costs will be addressed in the Company's next rate case taking into account:
 - a. the MISO determination of deliverability;
 - b. Xcel's actions to fully implement the requirements mentioned in the MISO System Impact Study; and
 - c. Xcel's demonstration of a good faith effort to mitigate any other newly identified issues related to the deliverability of the full capacity from the Invenenergy facility.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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